

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 179 of 2005
In
SPECIAL CIVIL APPLICATION No. 8824 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE FERTILISERS AND CHEMICALS LTD - Appellant(s)
Versus
SURENDRA T AMIN - Defendant(s)

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Appearance :

M/S TRIVEDI & GUPTA for Petitioner No(s).: 1.

None for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date : 05/08/2005

ORAL JUDGMENT (Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Learned counsel for the appellant strenuously argued that the learned Single Judge was unjustified in making distinction between the terms, 'discharge' and 'termination' and was absolutely unjustified in directing the payment of gratuity, the payment of which, in fact, was withheld and not forfeited. It is not in dispute before us that after issuing charge sheet, taking into consideration pendency of the criminal case, no further proceedings were drawn in the departmental inquiry and the respondent was discharged from the services. It is not in dispute before us that before imposing penalty of withholding or forfeiture of payment of gratuity, no opportunity of hearing was afforded to the workman. Learned counsel for the appellant though submitted that in the present case on the strength of the charges levelled against the workman he could not have been terminated without holding any inquiry, therefore, the order passed by the appellant should be taken to be one of termination. If that is so, then either departmental inquiry which was initiated should have been brought to an end or in the alternative, the appellant should have awaited final outcome of the criminal matter. The appellant cannot be allowed to play with the words to justify the wrong action. We find no reason to interfere. The appeal is dismissed.

2. Consequently, Civil Application No.1028 of 2005 is also rejected.

(R.S. GARG, J.)

(RAVI R. TRIPATHI, J.)